



# राजपत्र, हिमाचल प्रदेश

## (असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, शनिवार, 14 अक्टूबर, 1961/22 आश्विन, 1883

### JUDICIAL COMMISSIONER'S COURT

#### NOTIFICATION

*Simla-1, the 14th October, 1961/22nd Asvina, 1883 (Saka)*

**No. J.C.13 (D-13)/1961.**—The following rules, called as the Bar Council of Punjab (First Constitution) Rules, 1961, and the High Court of Punjab Notification No. 348-Rules/XIII. F.4, dated 10th October, 1961, for holding elections to the Bar Council Punjab and Himachal Pradesh, are reproduced hereunder for the general information of all concerned.

By order,  
HEM CHAND,  
Registrar.

## HIGH COURT OF PUNJAB AT CHANDIGARH

## NOTIFICATIONS

*Chandigarh, the 4th October, 1961*

**No. 317-Rules/XIII. F. 4.**—In exercise of the powers conferred by section 57 of the Advocates Act, 1961 (25 of 1961), the High Court of Punjab hereby makes the following rules:—

**1. Short title.**—These rules may be called the Bar Council of Punjab (First Constitution) Rules, 1961.

**2. Definitions.**—In these Rules, unless the context otherwise requires:—

- (i) "Act" means the Advocates Act, 1961;
- (ii) "Advocate-General" means the Advocate-General for the State of Punjab;
- (iii) "Bar Council" means the Bar Council of Punjab for the State of Punjab and the Union Territory of Himachal Pradesh;
- (iv) "Chairman" means the Chairman of the Bar Council;
- (v) "continuing candidate" means any candidate not elected and not excluded from the poll at any given time;
- (vi) "Count" means—
  - (a) all the operations involved in the counting of the first preferences recorded for candidates, or
  - (b) all the operations involved in the transfer of the surplus of an elected candidate, or
  - (c) all the operations involved in the transfer of the total value of votes of an excluded candidate;
- (vii) "exhausted paper" means a voting paper on which no further preference is recorded for a continuing candidate, and includes a voting paper on which:—
  - (a) the names of two or more candidates, whether continuing or not, are marked with the same figures and are next in order of preference; or
  - (b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the voting paper or by two or more figures;
- (viii) "first preference" means the figure "1" set opposite the name of a candidate; "second preference" means the figure "2" set opposite the name of a candidate; "third preference" means the figure "3" set opposite the name of a candidate, and so on;
- (ix) "original vote", in relation to any candidate, means a vote derived from a voting paper on which a first preference is recorded for such candidate;
- (x) "Secretary" means the Secretary to the Bar Council;
- (xi) "surplus" means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota;
- (xii) "transferred vote" means a vote the value or part of the value of which is credited to such candidate and which is derived from

a voting paper on which a second or a subsequent preference is recorded for such candidate;

(xiii) "unexhausted paper" means a voting paper on which a further preference is recorded for a continuing candidate;

(xiv) "voter" means any person entitled by virtue of section 53 of the Act to vote at the elections to the Bar Council to be constituted for the first time.

3. *Time and place of elections.*—Election of the members of the Bar Council shall be held at such place and on such day and during such hours as the Secretary may appoint.

4. *Notice of elections.*—(1) Notice of the time and place of election shall be given by publication in the Official Gazette over the signature of the Secretary upon a date not less than thirty days before the date of the election.

(2) Copies of such notice shall be sent by the Secretary to the Advocate-General and to the Presidents of all the Bar Associations in Punjab and the Bar Associations in the Union Territory of Himachal Pradesh to be affixed or circulated as they may direct and may also be sent to the District and Sessions Judges for circulation to other similar Associations.

5. *Candidates how to be proposed.*—Every candidate for election as a member of the Bar Council shall be proposed by five voters by letter addressed to the Secretary and signed by each such voter (and delivered personally) or by registered post (A.D.) not less than fifteen and not more than thirty days before the date of the election.

Each proposal must be accompanied by a deposit of Rs. 100 (rupees one hundred) and a statement signed by the candidate showing his willingness to serve on the Bar Council, if elected. The proposal shall be in the form prescribed hereto:

#### FORM (RULE 5)

To

The Registrar,  
Punjab High Court,  
Secretary Bar Council, Chandigarh.

We the undersigned Advocates, Punjab High Court/Union Territory of Himachal Pradesh, hereby propose the name of Shri.....  
son of Shri..... practising at.....  
as a candidate for election to the Bar Council of Punjab, to be held on.....

#### Consent of candidate

I, .....  
son of .....  
Advocate, Punjab High Court/Union  
Territory of Himachal Pradesh, practising  
at..... agree to serve on  
the Bar Council, if elected.  
Sd. ....  
Place .....  
Dated .....

#### Proposers

(i) Shri .....  
son of Shri .....  
Advocate, Punjab High Court/Union  
Territory of Himachal Pradesh  
practising at.....  
Sd. ....  
Place .....  
Dated .....  
(ii) Shri .....  
son of Shri .....  
Advocate, Punjab High Court/Union

Territory of Himachal Pradesh  
practising at.....  
Sd. ....  
Place .....  
Dated .....

Provided that if more proposals than one are received in respect of a candidate, a single deposit of Rs. 100 (rupees one hundred) only would be sufficient.

The amount of the deposit shall be non-refundable and shall go to the funds of the Bar Council except in case of withdrawal under rule 7.

6. *Doubts as to the validity of proposals.*—(1) The Secretary may submit to the Advocate-General any proposal as to the validity of which he may have any doubt and the decision of the Advocate-General shall be final.

(2) In the event of the Advocate-General deciding that the proposal is invalid, the fact shall be notified forthwith to the candidate by the Secretary and the candidate may thereupon submit another proposal within the time prescribed by rule 5.

7. *Withdrawal from election.*—Any person whose name has been proposed as a candidate may withdraw his name by communication in writing so as to reach the Secretary not later than ten days before the date of the election and thereupon his name shall be omitted from the list of candidates.

8. *Declaration when number of candidates equal to number of seats.*—When the number of candidates duly proposed is equal to the number of seats to be filled the Secretary shall declare the candidates as having been duly elected.

9. *Publication of list of candidates.*—Not less than 10 days before the date fixed for election, the Secretary shall cause the names of all the candidates duly proposed to be posted on a notice board in the High Court/Court of Judicial Commissioner, Himachal Pradesh and the District Courts and shall send lists of the said names to the Advocate-General and to the Presidents of the Bar Associations in the State of Punjab and the Union Territory of Himachal Pradesh for being affixed on the notice boards.

10. *Preparation of list of voters.*—The Secretary shall—

- (i) Prepare, maintain and publish list of voters consisting of the names of all the Advocates, Vakils, Pleaders and attorneys who, on the date of the election, are entitled as of right to practise in the High Court and are ordinarily practising within the State of Punjab and the Union Territory of Himachal Pradesh with their respective addresses; and
- (ii) Upon the application of any such voter have his address altered in the manner specified in the application.
- (iii) Upon application by a candidate make available the published list of voters on payment of Rs. 10.

11. *Despatch of voting papers to voters.*—(1) Not less than seven days before the date fixed for election, the Secretary shall send by post, under postal certificate at the address appearing in the list of voters prepared under rule 10, a voting paper bearing the names of all the candidates duly proposed and stating the numbers to be elected, together with an envelope for its return.

(2) The envelope referred to in sub-rule (1) shall be signed by the voter and his signature shall be attested by the District Judge or any Sub-Judge or Magistrate 1st Class of the place and sealed with the court seal or attested by the Registrar of the High Court or Registrar of the Judicial Commissioner's Court Himachal Pradesh, and unless it is so signed and attested, no votes purporting to have been given shall be taken into account for the purposes of the election.

(3) The voting paper shall be placed in a closed envelope and the same shall be placed in the envelope for return referred to in sub-rule (1) and shall be returned personally or by registered post so as to reach the Secretary at or by the time fixed for the closing of the election.

(4) The Secretary on receipt of such envelope shall open it and place the envelope containing the voting paper in a sealed box.

**12. Conduct of Election.**—Election and all matters relating thereto for which provision is made in these Rules shall be conducted by the Secretary and the Secretary may appoint any person or persons to assist him in the conduct thereof.

**13. Second voting paper not to be issued.**—A second voting paper shall not be issued to the voter unless he satisfies the Secretary that the voting paper has been spoilt or mutilated or lost or destroyed or has not been received by him, in which case a duplicate voting paper may be issued to him.

**14. Method of voting.**—(1) Every voter shall have only one vote at the election irrespective of the number of seats to be filled.

(2) A voter in giving his vote;—

- (a) shall place on his voting paper the figure "1" in the space opposite the name of the candidate whom he chooses for his first preference;
- (b) may place on his voting paper the figure "2" or the figure "2" and "3" or the figure "2", "3" and "4" and so on, in the space opposite the names of the other candidates in the order of his preference.

(3) A voting paper shall not be signed by a voter, and in the event of any erasures, obliterations or alterations in the voting paper or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced, and no votes purporting to have been given thereby shall be taken into account for the purposes of the election.

(4) The decision of the Advocate-General whether a voting paper has or has not been defaced shall be final.

**15. Voting papers when invalid.**—A voting paper shall be invalid on which—

- (a) the figure "1" is not marked; or
- (b) the figure "1" is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or
- (c) the figure "1" and some other figures are set opposite the name of the same candidate; or
- (d) there is any mark in writing by which the voter can be identified.

16. *Arrangement of valid voting papers in parcels.*—After rejecting the voting papers which are invalid or which cannot be taken into account for the purposes of the election under these rules, the Secretary shall—

- (a) arrange the remaining voting papers in parcels according to the first preference recorded for each candidate;
- (b) count and record the number of papers in each parcel; and
- (c) credit to each candidate the value of papers in his parcel.

17. *Ascertainment of quota.*—Every voting paper shall be deemed to be of the value of one hundred, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:—

- (a) add the values credited for a candidate under clause (c) of rule 16;
- (b) divide the total by a number which exceeds by one the number of seats to be filled; and
- (c) add one to the quotient, ignoring the remainder, if any;

the resulting number is the quota.

18. *Candidates with quota elected.*—If at the end of any count or at the end of the transfer of any parcel or sub-parcel of an excluded candidate the value of voting papers credited to that candidate is equal to or greater than the quota, that candidate shall be declared elected.

19. *Transfer of surplus.*—(1) If at the end of any count the value of the voting paper credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provisions of this rule to the continuing candidates indicated on the voting papers of that candidate as being next in order of the voter's preference.

(2) If more than one candidate have a surplus, the largest surplus shall be dealt with first and the others in order of magnitude:

Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(3) Where there are more surpluses than one to distribute and two or more surpluses are equal, regard shall be had to the original votes of each candidate, and the candidate for whom more original votes are recorded shall have his surplus first distributed, and if the value of the original votes is equal, the Secretary shall decide by lot which candidate shall have his surplus first distributed.

(4) (a) If the surplus of any candidate to be transferred arises on the original votes only, the Secretary shall examine all the papers in the poll belonging to that candidate, divide the unexhausted papers into sub-parcels according to the next preference recorded thereon and make a separate sub-parcel of the exhausted papers.

(b) The Secretary shall ascertain the value of the papers in each sub-parcel and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, the Secretary shall transfer all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus, the Secretary shall transfer the sub-parcels of the unexhausted papers and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(5) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Secretary shall re-examine all the papers in the sub-paragraph last transferred to the candidate, divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon, and then deal with the sub-parcels in the same manner as is provided in the case of sub-parcels referred to in sub-rule (4).

(6) The papers transferred to each candidate shall be added in the form of a sub-paragraph to the papers already belonging to such candidate.

(7) All papers in the paragraph or sub-paragraph of an elected candidate not transferred under this rule shall be set apart as finally dealt with.

**20. Exclusion of candidates lowest on the poll.**—(1) If, after all surpluses have been transferred as hereinbefore provided, the number of candidates elected is less than the required number, the Secretary shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon and all exhausted papers shall be set apart as finally dealt with.

(2) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(3) The papers containing transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which, and at the value at which, he obtained them.

(4) Each of such transfers shall be deemed to be a separate transfer, but not a separate count.

(5) If, as a result of the transfer of papers, the value of votes obtained by a candidate is equal to or greater than the quota, the count then proceeding shall be completed, but no further papers shall be transferred to him.

(6) The process directed by this rule shall be repeated on the successive exclusions one after another of the candidates lowest on the poll until such seat is filled either by the election of a candidate with the quota or as hereinafter provided.

(7) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the a candidate for whom fewest original votes are recorded shall be excluded; and if the values of their original votes are equal, the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(8) If two or more candidates are lowest on the poll and each has the same value of votes at all counts, the Secretary shall decide by lot which candidate shall be excluded.

**21. Filling last vacancies.**—(1) When at the end of any count the number of continuing candidates is reduced to the number of seats remaining unfilled

the continuing candidates shall be declared elected.

(2) When at the end of any count only one seat remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred that candidate shall be declared elected.

(3) When at the end of any count only one seat remains unfilled, and there are only two continuing candidates and each of them has the same value of votes and no surplus papers can be transferred, the Secretary shall decide by lot which of them shall be excluded, and after excluding him in the manner aforesaid declare the other candidate to be elected.

**22. Fractions etc. to be disregarded.**—In carrying out the provisions of rules 18 to 21, the Secretary shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

**23. Determination of result and publication thereof.**—(1) Upon the completion of count, a list of the candidates elected to the Bar Council shall be prepared and signed by the Secretary and submitted by him to the Advocate-General who shall certify the same by his signature.

(2) After such certificate a copy of the list shall be published in the official Gazette and shall be sent by the Secretary to the Advocate General and to the Presidents of all Bar Associations in the State of Punjab and the Union Territory of Himachal Pradesh to be affixed or circulated as they may direct and may also be sent to the District and Sessions Judges for circulation to *other similar associations*.

(3) On the publication of the list in the Official Gazette, the persons whose names appear in the list shall be deemed to have been declared as elected.

**24. Disputes as to validity of election.**—(1) A candidate may contest the validity of the election of a candidate declared to have been elected to the Bar Council by a letter signed by him and addressed to the Secretary.

(2) Such letter shall state the grounds on which the validity of the election is contested and shall be delivered to the Secretary within seven days of the date of publication in the Official Gazette of the list under rule 23.

(3) The Secretary shall on receipt of any such letter refer the dispute arising therefrom to the authority specified in rule 26 for decision.

(4) Subject to the other provisions contained in this rule after the expiry of seven days from the date of such publication, the validity of the election of a candidate shall not be contested on any ground whatsoever.

**25. Finality of election.**—At the expiry of twenty-one days from the date of publication aforesaid of the list, the election shall be final and the voting papers shall be destroyed. Provided that where the validity of an election has been challenged under rule 24, the voting papers shall be preserved and dealt with, as the authority specified in rule 26 may direct.

**26. Determination of election disputes.**—(1) Any dispute arising under rule 24 shall be decided by the Chief Justice or any other Judge of the High Court nominated by the Chief Justice and for the purpose of deciding the dispute the Chief Justice or such other Judge may hold such enquiry into the



matter and in such manner as he may deem fit.

(2) The decision of the Chief Justice or such other Judge shall be final.

**27. Invalid election.**—If the Chief Justice or such other Judge decides that a candidate has not been validly elected, the vacant seat on the Bar Council shall be filled as hereinafter provided in the case of a casual vacancy.

**28. Filling of casual vacancy.**—Any casual vacancy among the elected members of the Bar Council shall be filled in such manner as the Bar Council may determine.

**29. Election of Chairman and Vice-Chairman.**—The Bar Council shall as soon as may be after it is constituted elect a Chairman and Vice-Chairman from among its members.

**30. Secretary and Treasurer.**—The Bar Council shall appoint a Secretary and may, if it thinks fit to do so, appoint also an accountant.

**31. Quorum.**—The quorum for any meeting of the Bar Council shall be nine.

**32. Decisions of the Bar Council.**—(1) The decisions of the Bar Council shall be by a majority of votes of the persons present at any meeting.

(2) Each member present shall have one vote and the Chairman of the meeting shall have a casting vote.

**33. Transitional provisions.**—(1) Until a Chairman is elected to the Bar Council, the functions of the Chairman shall be performed by the Advocate-General.

(2) Until a Secretary is appointed by the Bar Council, the functions of the Secretary shall be performed by the Registrar of the High Court and all communications intended for Secretary shall be addressed to him.

By order of the Chief Justice and Judges,

P. P. R. SAWHNY,  
Registrar.

Chandigarh, the 10th October, 1961/18th Asvina, 1883 (Saka)

**No. 348 Rules/XIII. F. 4.**—It is hereby notified for the information of all concerned that under rule 3 of the rules framed under section 57 of the Advocates Act, 1961 (25 of 1961) as published under High Court Notification No. 317-Rules/XIII. F. 4, dated 4-10-1961, the Secretary, Bar Council, Chandigarh has fixed Wednesday, the 15th November, 1961, as the date for election of twenty members of the Bar Council of Punjab for the State of Punjab and Union Territory of Himachal Pradesh. The said election will be held in the office room of Registrar, Punjab High Court, (Secretary, Bar Council, Punjab, Chandigarh) up to 4 P.M. on the aforesaid date. The Advocates whose names are entered in the list of voters under rule 10 of the said rules are hereby requested to send proposals for elections of the members of the Bar Council to the Secretary, Bar Council (Registrar, Punjab High Court) in accordance with rule 5 of the afore-

said rules, which is reproduced below:—

“Every candidate for election as a member of the Bar Council shall be proposed by five voters by letter addressed to the Secretary and signed by each such voter (and delivered personally) or by registered post (A.D.) not less than fifteen and not more than thirty days before the date of the election.

Each proposal must be accompanied by a deposit of Rs. 100 (rupees one hundred) and a statement signed by the candidate showing his willingness to serve on the Bar Council, if elected. The proposal shall be in the form prescribed hereto:

#### FORM (RULE 5)

To

The Registrar,  
Punjab High Court,  
Secretary, Bar Council, Chandigarh.

We the undersigned Advocates, Punjab High Court/Union Territory of Himachal Pradesh hereby propose the name of Shri..... son of Shri..... practising at ..... as a candidate for election to the Bar Council of Punjab, to be held on.....

#### *Consent of candidate*

#### *Proposers*

I,..... son of..... Advocate, Punjab High Court/Union Territory of Himachal Pradesh, practising at ..... agree to serve on the Bar Council, if elected.  
Sd. ....  
Place .....  
Dated .....

(i) Shri..... son of Shri..... Advocate, Punjab High Court/Union Territory of Himachal Pradesh practising at .....  
Sd. ....  
Place .....  
Dated .....  
(ii) Shri..... son of Shri..... Advocate, Punjab High Court/Union Territory of Himachal Pradesh practising at .....  
Sd. ....  
Place .....  
Dated .....

Provided that if more proposals than one are received in respect of a candidate a single deposit of Rs. 100 (rupees one hundred) only would be sufficient.

The amount of the deposit shall be non-refundable and shall go to the funds of the Bar Council except in case of withdrawal under rule 7.”

P. P. R. SAWHNY,  
*Registrar,*  
*Punjab High Court,*  
*Secretary, Bar Council,*  
*Chandigarh.*